

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF TENNESSEE AT KNOXVILLE**

FILED

2018 MAY 23 P 2:42

LISA HORN-BRICHETTO

Plaintiff,

v.

TIFFANY SMITH, et al,

Defendant.

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Case No. 3:17-cv-163-JRG-CCS

U.S. DISTRICT COURT
EASTERN DIST. TENN.

CLERK

MOTION TO INTERVENE

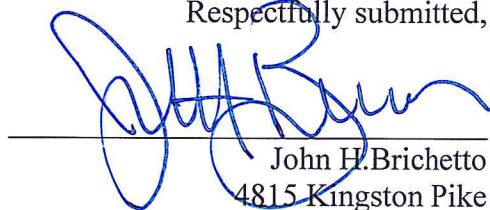
Comes the Plaintiff, (“Intervenor”) *pro se*, and moves pursuant to Rule 24, Fed. R. Civ. P., to intervene and be added as plaintiff. As grounds for this motion, Intervenor avers that he has claims that share a common question of law and fact with the Plaintiff. Specifically, Intervenor asserts that each claim that applies to the original Plaintiff, who is also his wife, applies to him, excepting claims for emotional distress. The conspiracy to retaliate and inflict cruel and unusual punishment and defame his wife is applied with equal force to him as well.

While the fact that the defamatory letter was prepared in anticipation of Intervenor’s parole hearing may tend to show that Defendants Smith and Johnson would be entitled to Prosecutorial Immunity, Intervenor argues that they are not so entitled as they were not acting as prosecutors in propogating the defamatory letter. As noted in the complaint (DE No.1), the Supreme Court has been “quite sparing” in it’s recognition of the doctrine of prosecutorial immunity.

Burns v. Reed, 500 U.S. 478, 486 (1991). Officials seeking absolute immunity bear the burden of proving that it is justified; therefore, Intervenor need not prove that they are not so entitled. *Buckley v. Fitzsimmons*, 509 U.S. 259, 269 (1993). As shown in the complaint, the question of immunity is a contextual one, and Intervenor would argue that the decision to write the defamatory letter was not made in a role of advocacy, but rather in their political roles. Nevertheless the burden regarding immunity lies with the defendants, not Intervenor.

WHEREFORE, for the forgoing reasons, Intervenor respectfully requests that he be added as a Plaintiff in this mater.

Respectfully submitted,



John H. Brichetto
4815 Kingston Pike
Knoxville, TN 37919

CERTIFICATE OF SERVICE

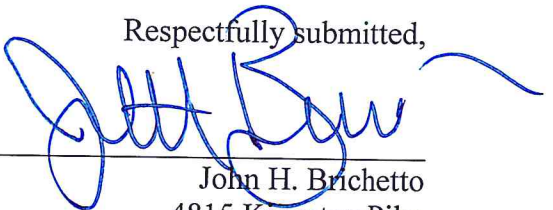
I hereby certify that a true and correct copy of the foregoing has been forwarded, via email or U.S. Mail, postage pre-paid or hand delivered to the following:

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Respectfully submitted,



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Clerk of the Court
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Knoxville, TN 37902



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